Indian Affairs - Office of Public Affairs

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WASHINGTON, D.C. – Secretary of the Interior Ken Salazar and Attorney General Eric Holder today announced a settlement of the long-running and highly contentious Cobell class action lawsuit regarding the U.S. government's trust management and accounting of over three hundred thousand individual American Indian trust accounts. Also speaking at the press conference today were Deputy Secretary of the Interior David Hayes and Associate Attorney General Tom Perrelli.

“This is an historic, positive development for Indian country and a major step on the road to reconciliation following years of acrimonious litigation between trust beneficiaries and the United States,” Secretary Salazar said. “Resolving this issue has been a top priority of President Obama, and this administration has worked in good faith to reach a settlement that is both honorable and responsible. This historic step will allow Interior to move forward and address the educational, law enforcement, and economic development challenges we face in Indian Country.”

“Over the past thirteen years, the parties have tried to settle this case many, many times, each time unsuccessfully," said Attorney General Eric Holder. "But today we turn the page. This settlement is fair to the plaintiffs, responsible for the United States, and provides a path forward for the future.”

Under the negotiated agreement, litigation will end regarding the Department of the Interior’s performance of an historical accounting for trust accounts maintained by the United States on behalf of more than 300,000 individual Indians. A fund totaling $1.4 billion will be distributed to class members to compensate them for their historical accounting claims, and to resolve potential claims that prior U.S. officials mismanaged the administration of trust assets.

In addition, in order to address the continued proliferation of thousands of new trust accounts caused by the "fractionation" of land interests through succeeding generations, the settlement establishes a $2 billion fund for the voluntary buy-back and consolidation of fractionated land interests. The land consolidation program will provide individual Indians with an opportunity to obtain cash payments for divided land interests and free up the land for the benefit of tribal communities.

By reducing the number of individual trust accounts that the U.S must maintain, the program will greatly reduce on-going administrative expenses and future accounting-related disputes. In order to provide owners with an additional incentive to sell their fractionated interests, the settlement authorizes the Interior Department to set aside up to 5 percent of the value of the interests into a college and vocational school scholarship fund for American Indian students.

The settlement has been negotiated with the involvement of the U.S. District Court for the District of Columbia. It will not become final until it is formally endorsed by the court. Also, Congress must enact legislation to authorize implementation of the settlement. Because it is a settlement of a litigation matter, the Judgment Fund maintained by the U.S. Departments of Justice and Treasury will fund the settlement.

“While we have made significant progress in improving and strengthening the management of Indian trust assets, our work is not over,” said Salazar, who also announced he is establishing a national commission to evaluate ongoing trust reform efforts and make recommendations for the future management of individual trust account assets in light of a congressional sunset provision for the Office of Special Trustee, which was established by Congress in 1994 to reform financial management of the trust system.

The class action case, which involves several hundred thousand plaintiffs, was filed by Elouise Cobell in 1996 in the U.S. District Court for the District of Columbia and has included hundreds of motions, dozens of rulings and appeals, and several trials over the past 13 years. The settlement funds will be administered by the trust department of a bank approved by the district court and distributed to individual Indians by a claims administrator in accordance with court orders and the settlement agreement.

Interior currently manages about 56 million acres of Indian trust land, administering more than 100,000 leases and about $3.5 billion in trust funds. For fiscal year 2009, funds from leases, use permits, land sales and income from financial assets, totaling about $298 million were collected for more than 384,000 open Individual Indian Money accounts and $566 million was collected for about 2,700 tribal accounts for more than 250 tribes. Since 1996, the U.S. Government has collected over $10.4 billion from individual and tribal trust assets and disbursed more than $9.5 billion to individual account holders and tribal governments.

The land consolidation fund addresses a legacy of the General Allotment Act of 1887 (the “Dawes Act”), which divided tribal lands into parcels between 40 and 160 acres in size, allotted them to individual Indians and sold off all remaining unallotted Indian lands. As the original holders died, their intestate heirs received an equal, undivided interest in the lands as tenants in common. In successive generations, smaller undivided interests descended to the next generation.

Today, it is common to have hundreds—even thousands—of Indian owners for one parcel of land. Such highly fractionated ownership makes it extremely difficult to use the land productively or to provide beneficial use for any individual. Absent serious corrective action, an estimated 4 million acres of land will continue to be held in such small ownership interests that very few individual owners will ever derive any meaningful financial benefit from that ownership.

Additional Information is available at the following sites: www.cobellsettlement.com. The Department of the Interior website: www.doi.gov. The Office of the Special Trustee website: www.ost.doi.gov